

# City of Detroit

CITY COUNCIL

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**TO:** The Honorable Detroit City Council

**FROM:** David Whitaker  
John Philo  
Nkrumah Johnson-Wynn

**DATE:** June 23, 2004

**RE:** Detroit Wayne County Health Authority Interlocal Agreement

Pursuant to this Honorable Body's request, the Research and Analysis Division reviewed the Detroit Wayne County Health Authority Interlocal Agreement signed by Mayor Kwame M. Kilpatrick, Chief Executive Officer Robert A. Ficano, and Department Director, Janet Olszewski on June 9, 2004. This memorandum serves to confirm that changes requested by this Honorable Body have been included within that document.



JENNIFER M. GRANHOLM  
GOVERNOR

STATE OF MICHIGAN  
OFFICE OF THE GOVERNOR  
LANSING

JOHN D. CHERRY, JR.  
LT. GOVERNOR

July 6, 2004

The Honorable Cathy M. Garrett  
Wayne County Clerk  
2<sup>nd</sup> Floor – Coleman A. Young Municipal Center  
2 Woodward Avenue  
Detroit, MI 48226

Dear Ms. Garrett:

Enclosed is the Interlocal Agreement between the City of Detroit, the Charter County of Wayne and the Department of Community Health to create the Detroit Wayne County Health Authority. This agreement has been approved by Governor Jennifer M. Granholm and is presented for filing with the Wayne County Clerk, pursuant to the Urban Cooperation Act (Public Act 7 of 1967) and Article I, Section 1.12 of this Interlocal Agreement.

Thank you for your cooperation.

Sincerely,

Robert A. Davis, Director  
Governor's Office for Southeast Michigan

RAD:mb

Enclosure

**INTERLOCAL AGREEMENT**

*by and among the*

**CITY OF DETROIT**

**CHARTER COUNTY OF WAYNE**

*and the*

**DEPARTMENT OF COMMUNITY HEALTH**  
**(a principal department of the State of Michigan)**

*creating the*

**DETROIT WAYNE COUNTY HEALTH AUTHORITY**

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**THIS INTERLOCAL AGREEMENT** is entered into pursuant to the authority of Section 28 of Article 7 of the Michigan Constitution of 1963 and the Urban Cooperation Act of 1967, 1967 (Ex Sess) PA 7, MCL 124.501 to 124.512, by and among the **CITY OF DETROIT**, a Michigan municipal corporation, the **CHARTER COUNTY OF WAYNE**, a Michigan charter county, and the **DEPARTMENT OF COMMUNITY HEALTH**, a principal department of the State of Michigan, for the purpose of establishing and creating the **DETROIT WAYNE COUNTY HEALTH AUTHORITY**, a separate legal entity and public body corporate, to administer and execute the health care objectives and purposes set forth herein. Each of the Parties to the Agreement is a Public Agency as defined in Act 7 with the power to carry out the programs described in this Agreement.

### RECITALS

A. The City and County face increasing erosion in their healthcare infrastructures, primarily due to high concentrations of limited resource patients (i.e., the uninsured, underinsured and underserved) and a lack of necessary funding, resulting in an increasingly fragile and unstable healthcare system for the At-Risk Population.

B. Accessible and reliable Health Care Services for the At-Risk Population and other residents throughout the Region requires long-term continuity, maximum flexibility, and intergovernmental cooperation. The City, County and Department each have the power and authority to provide, arrange for and improve Health Care Services for such populations. Through their cooperative efforts, the City, County, and Department can improve Health Care Services and health care programs for the At-Risk Population and other residents throughout the Region, and can further strengthen the viability and efficiency of the Health Care Safety Net within the Region, as well as access to its services.

C. The Parties intend to achieve the purposes established herein by creating a legal entity named the Detroit Wayne County Health Authority. In accordance with the terms of this Agreement, the Parties agree to exercise jointly through the Authority certain powers, duties, functions, and responsibilities of the Parties, each of which are essential to the provision of quality Health Care Services. Such powers, duties, functions, and responsibilities not exercised jointly through the Authority shall be retained by the respective Parties. No powers, duties, functions, obligations, liabilities or responsibilities of a Party will be transferred to the Authority without the express written consent of the Party and within the constraints of the Party's charters or laws.

D. The City, County, and Department have each determined that the programs and functions expressly described in this Agreement can be provided or performed in a more cost-effective manner if the Parties carry out such programs and functions in a coordinated fashion. This Agreement is also intended to serve as the basis upon which programs and functions performed by a Party can be transferred to the Authority. The actual terms and description of any programmatic/functional transfer

from a Party to the Authority shall be established pursuant to a written Transfer Agreement. Except as expressly provided in this Agreement, no powers, duties, functions, obligations, liabilities or responsibilities of a Party will be transferred to the Authority without the Transfer Agreement. A Party shall not transfer a program or function to the Authority if prohibited by the Michigan Constitution of 1963 or state law.

E. Under this Agreement, the Authority may not and shall not levy taxes and may not and shall not bind the State or any unit of state, county, city or township or village government to any obligation without the express consent of the State or individual unit.

F. While this Agreement is designed to enhance cooperation between the Parties, it neither merges nor eliminates any agency or department of any Party. This Agreement does not and shall not be construed to transfer any tort, pension, health care, salary, contract, or other employment obligation(s) or liabilities of the Parties to any other governmental unit, agency or board, except as expressly provided in this Agreement.

IN WITNESS WHEREOF, the Parties to this Agreement covenant and agree as follows:

## **ARTICLE I**

### **DEFINITIONS**

**Section 1.01.** "Act 7" means the Urban Cooperation Act of 1967, 1967 (Ex Sess) PA 7, MCL 124.501 to 124.512.

**Section 1.02.** "Agreement" means this Interlocal Agreement by and among the City of Detroit, Charter County of Wayne, and the Department of Community Health, a principal department of the State of Michigan.

**Section 1.03.** "At-Risk Population" means individuals residing within the Region who are uninsured, underinsured, or underserved with respect to accessible and adequate Health Care Services.

**Section 1.04.** "Authority" means the Detroit Wayne County Health Authority, a separate legal entity and public body corporate created pursuant to this Agreement in accordance with Act 7.

**Section 1.05.** "Authority Board" means the board of the Authority created under Article IV of this Agreement, which is responsible for the governance, management and oversight of the Authority.

**Section 1.06.** "Budget Act" means the Uniform Budgeting and Accounting Act, 1968 PA 2, MCL 141.421 to 141.440a.



**Section 1.07.** "CEO" means the chief executive officer of the Authority selected under Section 4.07 of this Agreement.

**Section 1.08.** "City" means the City of Detroit.

**Section 1.09.** "County" means the Charter County of Wayne.

**Section 1.10.** "Cultural Competence" means a set of congruent behaviors, attitudes, and policies that come together in a system, agency, or among professionals and enables that system, agency or those professionals to work effectively in cross-cultural situations; and represents the integration and transformation of knowledge about individuals and groups of people into specific standards, policies, practices, and attitudes used in appropriate cultural settings to increase the quality of services, thereby producing better outcomes.

**Section 1.11.** "Department" means the Department of Community Health, a principal department of the State of Michigan created under Executive Order 1996-1, MCL 330.3101, acting by and pursuant to the authority granted under the Public Health Code, 1978 PA 368, MCL 333.1101 to 333.25211, and other applicable law. The Department has determined that entering into this Agreement is necessary or appropriate to assist the Department in carrying out its duties and functions, including developing and delivering Health Care Services to vulnerable population groups.

**Section 1.12.** "Effective Date" means the later of the date(s) on which this Agreement or any amendment thereto is (i) filed with the Office of the Great Seal of the Michigan Department of State; and (ii) filed with the County Clerk of each county where a Party to the Agreement is located pursuant to Section 10 of Act 7; provided, however, that neither filing shall occur until this Agreement has been approved by the City Council of Detroit, the Wayne County Board of Commissioners, the Department Director, and the Governor of the State of Michigan.

**Section 1.13.** "Fiscal Year" means the fiscal year of the Authority, which shall begin on October 1 of each year and end on September 30 of the following year.

**Section 1.14.** "FOIA" means the Freedom of Information Act, 1976 PA 442, MCL 15.231 to 15.246.

**Section 1.15.** "Health Care Safety Net" means the Authority and those organizations, in both the public and private sectors, that have a commitment to meet certain requirements established by the Authority as well as to provide or arrange for the provision of Health Care Services for individuals served by the Authority. Organizations in the Health Care Safety Net include, but are not limited to, public and private hospitals that provide a disproportionate share of services to the At-Risk Population; community and migrant health centers; public health departments (both state and local); organizations funded by federal categorical programs such as Title X family planning clinics, Title V prenatal care programs, and Title XV breast and cervical cancer screening

program providers; medical schools, Federally Qualified Health Centers (FQHC), FQHC look-alikes and other community-based organizations that provide uncompensated or reduced-price services.

**Section 1.16. "Health Care Services"** means: primary, specialty and hospital care; ancillary and diagnostic services; home health care; health promotion and prevention services; community social services; outreach; and other health care related services as may be determined by the Authority Board. For purposes of this Agreement, Health Care Services also includes activities directed towards providing access to, coordinating, improving the quality of and monitoring the care for individuals served by the Authority, including without limitation: arranging for health care providers; enrolling individuals in health care programs; assigning individuals a primary care medical home, that provides preventative and primary care services and facilitates access to the full continuum of needed care; tracking and coordinating the individual's care to eliminate fragmentation; and making referrals to facilitate access to a full range of services to ensure Cultural Competence and access to appropriate services.

**Section 1.17. "HIPAA"** means the federal Health Insurance Portability and Accountability Act of 1996 and all corresponding regulations promulgated thereto.

**Section 1.18. "OMA"** means the Open Meetings Act, 1976 PA 267, MCL 15.261 to 15.275.

**Section 1.19. "Party" or "Parties"** means, either individually or collectively as applicable, the City, County, and Department as each are signatories to this Agreement.

**Section 1.20. "Person"** means an individual, authority, limited liability company, partnership, firm, organization, association, joint venture, trust, governmental entity, Public Agency, or other legal entity.

**Section 1.21. "Public Agency"** means, as defined in part in the Urban Cooperation Act, a political subdivision of the State or any other state of the United States or Canada, including, but not limited to, a State government; a county, city, village, township, charter township, school district, single or multipurpose special district, or single or multipurpose public authority; a provincial government, metropolitan government, borough, or other political subdivision of Canada; an agency of the United States government; or a similar entity of any other states of the United States and of Canada.

**Section 1.22. "Region"** means the City of Detroit, County of Wayne and territory encompassed by any other Public Agency serving the At-Risk Population as designated by the Authority Board, as may be amended by the Authority Board from time to time, pursuant to its bylaws.

**Section 1.23. "Revised Municipal Finance Act" or "Act 34"** means the Revised Municipal Finance Act, 2001 PA 34, MCL 141.2101 to 141.2821.

**Section 1.24. "State"** means the State of Michigan.

**Section 1.25. "Strategic Plan"** means a plan for the provision, coordination and funding of Health Care Services to the At-Risk Population and other residents throughout the Region, as determined by the Authority Board.

**Section 1.26. "Transfer Agreement"** means a written contract entered into under the authority of this Agreement between a Party and the Authority establishing the terms and conditions of the Party's transfer of programs, functions and/or funding to the Authority. The Transfer Agreement may include the Authority's related performance standards and remedies for failure to meet such standards. Transfer of State programs, functions and/or funding to the Authority shall comply with the applicable requirements of state law. No powers, duties, functions, obligations, liabilities or responsibilities of a Party will be transferred to the Authority without the express written consent of the Party and within the constraints of the Party's charters or laws.

## **ARTICLE II**

### **PURPOSE**

**Section 2.01. Purpose.** The purpose of this Agreement is to create and empower the Authority to implement the powers, privileges, and authority of each of the Parties with respect to the subject matter of this Agreement, to manage and improve the viability and effectiveness of the Health Care Safety Net and access to its services, and to improve Health Care Services for the At-Risk Population, and secondarily for other residents throughout the Region as determined by the Authority Board, including, but not limited to: assuring improved access to Health Care Services through an integrated, coordinated and seamless health care system comprised of primary, preventive and specialty health care clinics and facilities, acute care hospitals, and professional and nonprofessional health care providers (e.g., caregivers), whether directly or indirectly through contracts; adopting a Strategic Plan for the health care of those individuals served by the Authority; providing Health Care Services; aggressively seeking additional government and private funds for Health Care Services; receiving and disbursing public and private funds in exchange for Health Care Services or rendered or arranged by or through the Authority; and striving to assure that individuals receive appropriate and quality Health Care Services in a way that will maximize efficiency and efficacy.

**Section 2.02. Programs and Functions.** The Authority shall endeavor to carry out the purposes of this Agreement by facilitating the financing and the provision or arrangement of specific Health Care Services for the At Risk Population and secondarily for other residents throughout the Region, as determined by the Authority Board; by actions to maximize revenues for the Health Care Safety Net; and by enhancing the efficiency and effectiveness of the Health Care Safety Net. Nothing contained in this Agreement shall be construed to preclude or limit in any way the Authority from providing or arranging for the provision of Health Care Services to individuals with

health care insurance. In addition, the Authority shall endeavor to carry out all of the powers, privileges, functions and responsibilities described in this Agreement; provided, however, that no Party shall be required to transfer any powers, privileges, functions or responsibilities to the Authority, except as described herein or in a Transfer Agreement. Any such transfer shall not expand the individual responsibilities of any Party. The Authority's functions and responsibilities under this Section 2.02 shall include the following:

- (a) Adopt a Strategic Plan for the Health Care Services for those individuals served by the Health Care Safety Net that places a high priority on the development, expansion and preservation of primary and preventative care services for the At-Risk Population in Detroit and Wayne County.
- (b) Seek additional government and private funds for Health Care Services.
- (c) Receive and disburse public and private funds for the provision of Health Care Services and reserve funds for the development, expansion and preservation of primary and preventative care services for the At-Risk Population in Detroit and Wayne County.
- (d) Strive to assure that individuals receive appropriate and quality Health Care Services in a way that will maximize efficiency and efficacy.
- (e) Establish a defined and accountable set of resources and services to care for the At-Risk Population.
- (f) Seek to expand the number and location of primary care access points to serve the At-Risk Population with the goal of facilitating the development of fifteen (15) new access points within the next ten (10) years.
- (g) Provide health services management and tracking as a core component of the delivery system to coordinate the provision of Health Care Services.
- (h) Implement a delivery system able to enhance federal and other funding and reduce duplication.
- (i) Significantly Expand preventive health services for the At Risk Population.

### **ARTICLE III**

#### **CREATION OF THE AUTHORITY**

**Section 3.01. Creation of and Legal Status of Authority.** There is hereby established a separate legal entity to be known as the "Detroit Wayne County Health Authority" for the purpose of administering and executing this Agreement. The

Authority shall be a public body corporate having the powers granted in Articles V and VI of this Agreement.

**Section 3.02. Principal Office.** The principal office of the Authority is at the location determined by the Authority Board.

**Section 3.03. Title to Authority Assets.** Except as otherwise provided in the terms of a transfer of programs and/or funding from a Party to the Authority, the Authority shall have exclusive title to all its property, and no Party shall have an ownership interest in Authority property.

**Section 3.04. Tax-exempt Status.** The Parties intend the activities of the Authority to be governmental functions carried out by an instrumentality or political subdivision of government as described in Section 115 of the Internal Revenue Code of 1986, 26 USC 115, or any corresponding provisions of any future tax code. The Parties also intend the activities of the Authority to be governmental functions carried out by a political subdivision of this State, exempt to the extent provided under Michigan law from taxation by this State, including, but not limited to, the single business tax under the Single Business Tax Act, 1975 PA 228, MCL 208.1 to 208.145, and property taxes under The General Property Tax Act, 1893 PA 206, MCL 211.1 to 211.157.

**Section 3.05. Compliance with Law.** The Authority shall comply with all federal and state laws, rules, regulations, and orders applicable to this Agreement, as well as with the duties and obligations that may from time to time be transferred to the Authority from each of the respective Parties.

**Section 3.06. Relationship of the Parties.** The Parties agree that no Party shall be responsible, in whole or part, for the acts of the employees, agents, and servants of any other Party, whether acting separately or in conjunction with the implementation of this Agreement. The Parties shall only be bound and obligated hereunder as expressly agreed to by each Party; no Party may obligate any other Party. No employee, agent, or servant of the Authority, City of Detroit, or County of Wayne shall be, or shall be deemed to be, an employee, agent, or servant of the State for any reason.

**Section 3.07. No Third-Party Beneficiaries.** This Agreement does not create in any Person, other than a Party, and is not intended to create by implication or otherwise, any direct or indirect benefit, obligation, duty, promise, right to be indemnified (i.e., contractually, legally, equitably, or by implication), right to be subrogated to any Party's rights in this Agreement, and/or any other right or benefit.

**Section 3.08. Limitation of Liability.** In accordance with Act 7, to the extent that a Party has transferred any obligation or responsibility imposed upon it by law to the Authority, and to the extent that such Party has provided funding as may be required by a Transfer Agreement, actual and timely performance by the Authority shall be deemed satisfaction of the Party's obligation or responsibility. In such cases, the transferring Party shall not be responsible in any way for performance of the transferred obligation or

responsibility. A Transfer Agreement may limit the liability of a transferring Party for any actions taken by the Authority. As applicable, the Authority may insure against any such potential loss/damage.

**Section 3.09. Geographic Boundaries.** The Authority shall endeavor to exercise its powers provided under this Agreement within the Region.

#### **ARTICLE IV** **AUTHORITY BOARD AND CEO**

**Section 4.01. Authority Board Composition.** The Authority shall be governed by the Authority Board, which shall be appointed within 30 calendar days of the Effective Date. The Authority Board shall consist of nine (9) members, in accordance with the following:

- (a) Two (2) members appointed by the Mayor of the City of Detroit to represent the City of Detroit. A member appointed under this paragraph must be a resident of the City of Detroit, serve at the pleasure of the Mayor, and may be removed by the Mayor from the Authority Board at any time;
- (b) One (1) member appointed to represent the City of Detroit by the City Council of the City of Detroit. A member appointed under this paragraph must be a resident of the City of Detroit, serve at the pleasure of the City Council and may be removed by the City Council from the Authority Board at any time;
- (c) Two (2) members appointed to represent the County by the County Chief Executive Officer. A member appointed under this paragraph must be a resident of the County, serve at the pleasure of the County Chief Executive Officer and may be removed from the Authority Board by the County Chief Executive Officer at any time;
- (d) One (1) member appointed to represent the County by the County Board of Commissioners. A member appointed under this paragraph must be a resident of the County, serve at the pleasure of the County Commission and may be removed by the County Commission from the Authority Board at any time;
- (e) Two (2) members appointed by the Governor of the State of Michigan. The Governor shall appoint one of the members appointed under this paragraph from a list of four (4) individuals recommended by the leadership of the

Legislature of the State of Michigan. A member appointed under this paragraph must be a resident of the Region, serve at the pleasure of the Governor and may be removed by the Governor from the Authority Board at any time; and

- (f) One (1) member appointed by the Department Director. A member appointed under this paragraph must be a resident of the Region, shall serve at the pleasure of the Department Director and may be removed by the Department Director from the Authority Board at any time.

Each Party entitled to membership on the Authority Board shall have the ability to appoint one (1) alternate to serve in a permanent member's place and stead if the permanent member is absent from an Authority Board meeting. Appointment of the alternate shall be made in writing. A vacancy on the Authority Board for a cause other than the expiration of a term shall be filled in the same manner as the original appointment for the balance of the unexpired term.

**Section 4.02. Term.** Members of the Authority Board shall serve for a term of three (3) years. The terms shall be staggered. To provide for staggered terms, the initial Authority Board shall consist of three (3) groups, in accordance with the following. The first group ("Group A") shall consist of three (3) positions with one (1) year terms. The Department Director, Mayor of the City of Detroit and Chief County Executive Officer shall each appoint one (1) position.

The second group ("Group B") shall consist of three (3) positions with two (2) year terms. The Governor shall appoint one (1) position from a list of four (4) individuals recommended by the leadership of the Legislature of the State of Michigan. The City Council of the City of Detroit and the County Commission shall each appoint one (1) position.

The third group ("Group C") shall consist of three (3) positions with three (3) year terms. The Governor, Mayor of the City of Detroit and Chief County Executive Officer shall each appoint one (1) position.

Upon expiration of those terms, all members of the Authority Board shall thereafter be appointed or re-appointed for three (3) year terms.

**Section 4.03. Meetings.** The Authority Board must conduct its first meeting no earlier than thirty (30) calendar days and no later than forty-five (45) calendar days after the Effective Date; provided that a quorum of the Authority Board has been appointed. The Board shall meet regularly, but not less than quarterly. All meetings of the Authority Board shall comply with the OMA. Public notice of the time, date, and place of the meetings shall be given in the manner required by the OMA.

**Section 4.04. Quorum and Voting.** A majority of the members of the Authority Board then in office shall constitute a quorum for the transaction of business. The

Authority Board shall act by a majority vote of the members appointed and serving at the time of the vote. The Authority Board shall not engage in proxy voting.

**Section 4.05. Authority Board Responsibilities.**

(1) The Authority Board shall do all of the following by a majority vote:

- (a) Adopt bylaws, rules, and procedures governing the Authority Board and its actions and meetings. Initial bylaws shall be adopted within six (6) months of the first meeting of the Authority Board;
- (b) Elect officers. Initial officers shall be appointed within thirty (30) days of the first meeting of the Authority Board;
- (c) Approve policies to implement day-to-day operation of the Authority, including policies governing the staff of the Authority;
- (d) Conduct an annual audit in accordance with the Budget Act;
- (e) Approve uniform data requirements to assess the costs and benefits of Health Care Services within the Region;
- (f) Adopt personnel policies and procedures;
- (g) Approve policies and procedures with respect to contracting and procurement;
- (h) Adopt an investment policy in accordance 1943 PA 20, MCL 129.91 to 129.96, and establish commercial banking arrangements;
- (i) Adopt a Strategic Plan for Health Care Services;
- (j) Adopt policies to promote employment opportunities for Detroit and Wayne County residents, and to promote contracting opportunities for Detroit and Wayne County entities for all functions performed by the Authority, and particularly for entities that principally provide Health Care Services to the At-Risk Population; and
- (k) Take such other actions and steps as shall be necessary or advisable to accomplish the purposes of this Agreement.

(2) The Authority Board shall do all of the following by vote of a supermajority of 6 of its members:

- (a) Select and retain a CEO as set forth in Section 4.08;



(b) Provide for a system of accounts to conform to a uniform system required by law, and review and approve the Authority's budgets to assure that the budgets are approved and administered in accordance with the Budget Act;

(c) Approve performance measures of the efficiency and effectiveness of the provision of Health Care Services to the At-Risk Population in the Region.

**Section 4.06. Fiduciary Duty.** The members of the Authority Board are under a fiduciary duty to conduct the activities and affairs of the Authority in the best interests of the Authority, including the safekeeping and use of all Authority monies and assets. The members of the Authority Board shall discharge their duties in good faith, with the care that an ordinarily prudent individual in a like position would exercise under similar circumstances.

**Section 4.07. Compensation.** The members of the Authority Board shall receive no compensation for the performance of their duties. An Authority Board member may engage in private or public employment, or in a profession or business. Members of the Authority Board may be reimbursed by the Authority for actual and necessary expenses incurred (e.g., travel, meals, etc.) in the discharge of their official duties.

**Section 4.08. CEO.** No later than six (6) months after the first meeting of the Authority Board, the Authority Board shall select and retain a CEO. The CEO shall administer the Authority in accordance with the Strategic Plan adopted by the Authority Board, the operating budget adopted by the Authority Board, the general policy guidelines established by the Authority Board, other applicable governmental procedures and policies, and this Agreement. The CEO shall be responsible for the day-to-day operation of the Authority; the control, management and oversight of the Authority's functions; and supervision of all Authority employees. All terms and conditions of the CEO's employment, including length of service, shall be specified in a written contract between the CEO and the Authority Board, provided that the CEO shall serve at the pleasure of the Authority Board, and the Authority Board may remove or discharge the CEO by a vote of not less than the majority of the members then serving.

**Section 4.09. Ethics and Conflicts of Interest.** The Authority Board shall adopt ethics policies governing the conduct of Authority Board members, officers, appointees, and employees. The policies shall be no less stringent than those provided for public officers and employees under the State Ethics Act, 1973 PA 196, MCL 15.341 to 15.348. Members of the Authority Board and officers, appointees, and employees of the Authority shall be deemed to be public servants under 1968 PA 317, MCL 15.321 to 15.330, and are subject to any other applicable law with respect to conflicts of interest. The Authority Board shall establish policies and procedures requiring disclosure of relationships that may give rise to conflicts of interest.

**Section 4.10. Community Advisory Committee.** The Authority Board shall appoint a Community Advisory Committee consisting of twenty-five (25) members representing community organizations located in the Region, and citizens and users of the Health Care Services residing in the Region, including without limitation representation of individuals with disabilities, senior citizens, businesses, labor, community organizations, and faith-based organizations. Members of the Community Advisory Committee shall serve without compensation and shall meet at least on a quarterly basis. The Community Advisory Committee may make reports and recommendations to the Authority Board at each Authority Board meeting to support the activities and purpose of the Authority. Activities of the Community Advisory Committee may include the following, and shall only be expanded upon by the decision of a majority of the Authority Board members:

- (a) Providing input to working groups of the Authority concerning the development and ongoing activities of the Authority;
- (b) Receiving comments from the broader community, and assisting in the engagement of the broader community in the Authority's planning process; and
- (c) Serving as a conduit of information for the Authority to the broader community.

**Section 4.11 Provider Advisory Committee.** The Authority Board shall appoint a Provider Advisory Committee consisting of twenty-five (25) members representing the providers of Health Care Services. Members of the Provider Advisory Committee shall serve without compensation and shall meet at least on a quarterly basis. The Provider Advisory Committee may make reports and recommendations to the Authority Board at each Authority Board meeting to support the activities and purpose of the Authority. Activities of the Provider Advisory Committee may include the following, and shall only be expanded upon by the decision of a majority of the Authority Board members:

- (a) Providing input to working groups of the Authority concerning the development and ongoing activities of the Authority;
- (b) Receiving comments from the broader provider community and assisting in the engagement of the broader provider community in the Authority's planning process; and
- (c) Serving as a conduit of information for the Authority to the broader provider community.

## **ARTICLE V**

### **GENERAL POWERS OF AUTHORITY**

**Section 5.01. Powers Granted Under Act 7.** In carrying out its purposes, the Authority may perform, or perform with any Person, as applicable, any power, privilege, or authority that the Parties share in common and that each might exercise separately to the fullest extent permitted by Act 7 and in accordance with relevant law. The Authority shall not have the power to bind a Party, unless otherwise agreed to by the Party. The enumeration of a power in this Agreement shall not be construed as a limitation upon the powers of the Authority, and is in addition to any powers authorized by law. Among other things, the Authority shall have the powers to:

- (a) Make or enter into contracts;
- (b) Employ agencies or employees;
- (c) Acquire, construct, manage, maintain, or operate buildings, works, or improvements;
- (d) Acquire, own, hold, operate, maintain, lease, or sell real or personal property and dispose of, divide, or distribute any property.
- (e) Incur debts, liabilities, or obligations that, except as expressly authorized by the Parties, do not constitute the debts, liabilities, or obligations of any of the Parties;
- (f) Cooperate with a Public Agency, an agency or instrumentality of the Public Agency, or another legal or administrative entity created by the Public Agency under Act 7;
- (g) Make loans from the proceeds of gifts, grants, assistance funds, or bequests in order to further its purposes;
- (h) Form other entities necessary to further the purposes of the Agreement; and
- (i) Sue and be sued in the name of the Authority.

**Section 5.02 Additional Powers Granted Under Act 7.** The Authority shall also have the powers to:

- (a) Employ, engage, compensate, transfer, or discharge necessary personnel, subject to the provisions of applicable civil service and merit systems and Act 7;
- (b) Fix and collect charges, rates, rents, fees, loan repayments, loan interest rates, or other charges on loans;

- (c) Promulgate necessary rules and provision for their enforcement by or with the assistance of the Parties to accomplish the purposes of this Agreement;
- (d) Accept gifts, grants, assistance funds, or bequests and use the same for the purposes of this Agreement. The Authority may apply for and accept grants, loans, or contributions from any source. The Authority may do anything within its power to secure the grants, loans, or other contributions;
- (e) Make claims for federal or state aid payable to a Party on account of the execution of this Agreement;
- (f) Respond for any liabilities that might be incurred through performance of the Agreement and insure against any such liability;
- (g) Consistent with Article X, adjudicate disputes or disagreements, the effects of failure of the Parties to pay their shares of the costs and expenses, and the rights of the other Parties in such cases;
- (h) Engage auditors to perform independent audits of the financial statements of the Authority;
- (i) Invest surplus funds or proceeds of grants, gifts, or bequests and adopt an investment policy in connection therewith;
- (j) Employ legal, financial and technical experts, other officers, agents, or employees, and accept voluntary provision of such services and functions from donor individuals and entities;
- (k) Study, develop, and prepare the reports or plans the Authority considers necessary to further the purposes of this Agreement and to monitor and evaluate performance under this Agreement; and
- (l) Indemnify, as permitted by law, and procure insurance indemnifying any members of the Authority Board or officers or employees of the Authority from personal loss or accountability from liability asserted by any Person for any acts or omissions of the Authority.

**Section 5.03. Bonds or Notes; Limitation.** The Authority shall not issue any type of bond in its own name except as authorized by Act 7. The Authority shall not possess the power to in any way indebted a governmental unit participating in this Agreement. The Authority may borrow money and issue bonds or notes in its name for local public improvements or for economic development purposes provided that the Authority shall not borrow money or issue bonds or notes for a sum that, together with the total outstanding bonded indebtedness of the Authority, exceeds 2 mills of the taxable value of the taxable property within the City or County as determined under section 27a

of The General Property Tax Act, 1893 PA 206, MCL 211.27a, unless otherwise authorized by Act 7. Bonds or notes issued by the Authority are the debt of the Authority and not of the Parties. Bonds or notes issued by the Authority are for an essential public and governmental purpose. Pursuant to Section 7(7) of Act 7, bonds or notes, together with the interest on the bonds or notes and income from the bonds or notes, are exempt from all taxes. Bonds or notes issued by the Authority are subject to Act 34 as required by Section 7(8) of Act 7.

**Section 5.04. Tax Limitation.** The Authority shall not levy any type of tax within the boundaries of any Party. Nothing contained in this Agreement, however, prevents the Parties from levying taxes in their own right and assigning the revenue from such taxes to the Authority, to the extent provided by law.

**Section 5.05. Limitation on Political Activities.** The Authority shall not spend any public funds on political activities. This section is not intended to prohibit the Authority from engaging in activities permitted under the Michigan Campaign Finance Act, 1976 PA 388, MCL 169.201 to 169.282.

**Section 5.06. No Waiver of Governmental Immunity.** The Parties agree that no provision of the Agreement is intended, nor shall it be construed, as a waiver by any Party of any governmental immunity provided under Act 7 or other law.

## **ARTICLE VI**

### **SPECIFIC POWERS OF AUTHORITY**

**Section 6.01. General Health of the Public.** The Authority may continually and diligently endeavor to prevent disease, prolong life, and promote the health of the public through organized programs, including prevention and control of environmental health hazards; prevention and control of diseases; prevention and control of health problems of the At-Risk Population and particularly vulnerable population groups; development of health care facilities and agencies and health services delivery systems, to the extent provided by law.

**Section 6.02. Health Care Services.** The Authority may promote an adequate and appropriate system of Health Care Services throughout the Region, and may endeavor to develop and establish arrangements and procedures for the effective coordination and integration of Health Care Services, including effective cooperation between public and nonpublic entities to provide a unified system of health care within the Region for the At-Risk Population.

**Section 6.03. Contracting.** The Authority may enter into agreements, contracts or arrangements with a governmental entity or other individuals necessary or appropriate to assist the Authority in carrying out its duties and functions, including without limitation contracting for the provision and payment of Health Care Services.

**Section 6.04. Federal Funding.** The Authority may participate with the State in enhancing Federal funding for Health Care Services paid in part by the Federal government.

**Section 6.05. Funds.** The Authority may receive local, State and Federal funds to pay for Health Care Services within the Region, and to accomplish its purposes. The Authority may establish payment rates for Health Care Services.

When a Party transfers a program, it performs to the Authority; the Party shall do so in accordance with the terms of a Transfer Agreement. All monies transferred, if any, to the Authority by a Party shall be used for the programs/functions/responsibilities as established in the Transfer Agreement. When a Party has a legal obligation to fund a transferred obligation or responsibility, the Party's funding obligation shall be deemed satisfied upon transfer of the requisite funding to the Authority, in accordance with the terms of a Transfer Agreement.

**Section 6.06. Gifts, Grants, Bequests, Donations.** The Authority may accept gifts, grants, bequests and other donations for use in performing the Authority's functions. Funds or property accepted shall be used as directed by its donor in accordance with applicable law, rules and procedures.

**Section 6.07. Health Care Facilities.** The Authority may acquire, own, operate and/or maintain hospitals, health care clinics and other health care facilities, directly or indirectly. The Authority may enter into one or more agreements with one or more Persons for the purpose of leasing, conveying, or otherwise acquiring health care facilities. Any such lease, conveyance, transfer, or other agreement to acquire such health care facilities shall be on such terms as may be agreed upon by the Parties and shall include consideration of the Authority's agreement to assume liabilities associated with such health care facilities. Any transfer of health care facilities to the Authority shall be conditioned upon the existence of a binding agreement between the Authority and the Persons transferring management and operation of some or all of the health care facilities to the Authority and by which the Authority shall accept and agree to further the purposes of this Agreement.

**Section 6.08. Collective Bargaining.** The Authority shall have the right to bargain collectively and enter into agreements with labor organizations. The Authority shall be bound by existing collective bargaining agreements with publicly or privately owned entities that are acquired or purchased by the Authority. Members and beneficiaries of any pension or retirement system established by the acquired entity, and beneficiaries of any of the benefits established by the acquired entity, shall continue to have rights, privileges, benefits, obligations, and status under the acquired pension or retirement system or benefits.

**Section 6.09. Municipal Employee Retirement System.** To the extent permitted under Michigan law, the Authority Board may elect to become a participating municipality on behalf of all Authority employees, including acquired employees under

Section 6.08, but only pursuant to section 2c(2) of the Municipal Employees Retirement Act of 1984, 1984 PA 427, MCL 38.1501 to 38.1558.

## **ARTICLE VII**

### **BOOKS, RECORDS, AND FINANCES**

**Section 7.01. Authority Records.** The Authority shall keep and maintain at the principal office of the Authority all documents and records of the Authority. The records of the Authority, which shall be available to the Parties, shall include a copy of this Agreement along with any amendments to the Agreement. The records and documents shall be maintained until termination of this Agreement and shall be returned to any successor entity or, if none, to the State. Notwithstanding the foregoing, any information obtained by the Authority that is subject to HIPAA shall be used and maintained in accordance with HIPAA requirements.

**Section 7.02. Financial Statements and Reports.** The Authority shall prepare, or cause to be prepared, at its own expense, audited financial statements (balance sheet, statement of revenue and expense, statement of cash flows, and changes in fund balance) on an annual basis. Such financial statements shall be prepared in accordance with generally accepted accounting principles and shall be accompanied by a written opinion of an independent certified public accounting firm. A copy of the annual financial statement and report shall be filed with the Michigan Department of Treasury, and shall be made available to each of the Parties.

**Section 7.03. Audits.** The Authority Board shall employ on an annual basis an independent certified public accounting firm to review the audits of any Health Care Service provider receiving funds directly or indirectly from the Authority. The cost associated with the audits and reviews required under this section shall be the responsibility of the provider of services being audited. Each audit shall be conducted in accordance with sections 6 to 13 of the Budget Act, and shall be made available at the request of any Party. Any Party can request an individual audit of their funding obligation annually, and such review shall be conducted.

The Authority Board shall establish a dedicated audit committee of the Authority Board for the purpose of overseeing the accounting and financial reporting processes of the Authority and audits of its financial statements. The Authority shall establish specific duties and obligations of the audit committee and standards and qualifications for membership thereon. The Authority may require at least one member to be specifically knowledgeable about financial reports.

The Audit Committee shall recommend to the Authority Board for implementation appropriate provisions of the Sarbanes-Oxley Act, 15 USC 7201 *et seq.*

**Section 7.04. Freedom of Information Act.** The Authority shall be subject to and comply with the FOIA.

**Section 7.05. Uniform Budgeting and Accounting Act.** The Authority shall be subject to and comply with the Budget Act. The CEO annually shall prepare and the Authority Board shall approve a budget for the Authority for each Fiscal Year. Each budget shall be approved by the first (1<sup>st</sup>) of September immediately preceding the beginning of the Fiscal Year of the Authority.

**Section 7.06. Budget and Performance Standards.** Each Fiscal Year, the CEO shall prepare performance standards for review and approval by the Authority Board. The Authority shall be responsible to adhere to such performance standards, and if there is a Transfer Agreement, any other requirements as may be set forth in such Transfer Agreement.

**Section 7.07. Five-Year Capital Program and Budget.** The CEO shall prepare and the Authority Board shall approve a capital program and a projected operating budget to cover 5 fiscal years. Is so requested by the Authority Board, the CEO shall revise and update the capital program and projected operating budgets on an annual basis and submit the revised capital program and projected operating budgets to the Authority Board each fiscal year.

**Section 7.08. Deposits and Investments.** The Authority shall deposit and invest funds of the Authority, not otherwise employed in carrying out the purposes of the Authority, in accordance with an investment policy established by the Authority Board consistent with laws and regulations regarding investment of public funds.

**Section 7.09. Disbursements.** Disbursements of funds shall be in accordance with guidelines established by the Authority Board and in accordance with law.

## **ARTICLE VIII**

### **TERM/TERMINATION**

**Section 8.01. Term.** This Agreement and the Authority shall commence on the Effective Date, and shall continue in effect until terminated by joint action of a majority of the Parties.

**Section 8.02. Disposition upon Termination.** As soon as possible after termination of this Agreement, the Authority shall wind up its affairs as follows:

- (a) All of the Authority's debts, liabilities, and obligations to its creditors and all expenses incurred in connection with the termination of the Authority and distribution of its assets shall be paid first; and
- (b) Title to all property and assets owned by the Authority shall be distributed in accordance with the following: first, as dictated by the terms of any Transfer Agreements between the Parties and the Authority, and second,



as agreed upon by the Authority Board, which may include transfer of such property and assets to a successor entity.

## **ARTICLE IX**

### **MISCELLANEOUS**

**Section 9.01. Notices.** Any and all correspondence or notices required, permitted or provided for under this Agreement to be delivered to any Party shall be sent to that Party by first class mail. All such written notices shall be sent to each other Party's signatory to this Agreement, or that signatory's successor, in care of the Clerk in the case of a municipal Party and in care of the Director in the case of the State. All correspondence shall be considered delivered to a Party as of the date that such notice is deposited with sufficient postage with the United States Postal Service. All such notices of withdrawal shall be sent via certified mail to the address as set forth above such Party's signature.

**Section 9.02. Entire Agreement.** This Agreement sets forth the entire agreement between the Parties and supersedes any and all prior agreements or understandings between them in any way related to the subject matter of this Agreement. It is further understood and agreed that the terms and conditions of this Agreement are contractual and are not a mere recital and that there are no other agreements, understandings, contracts, or representations between the Parties in any way related to the subject matter of this Agreement, except as expressly stated in this Agreement.

**Section 9.03. Severability of Provisions.** If any provision of this Agreement, or its application to any Person, Party or circumstance, is invalid or unenforceable, the remainder of this Agreement and the application of that provision to other Persons or circumstances and to the remaining Parties is not affected but will be enforced to the extent permitted by law, it being the intent of the remaining Parties to continue to agree to the substantive provisions of this Agreement and to implement the Agreement.

**Section 9.04. Governing Law.** This Agreement is made and entered into in the State of Michigan and shall in all respects be interpreted, enforced, and governed under the laws of the State of Michigan without regard to the doctrines of conflict of laws. The language of all parts of this Agreement shall in all cases be construed as a whole according to its fair meaning and not construed strictly for or against any Party.

**Section 9.05. Captions and Headings.** The captions, headings, and titles in this Agreement are intended for the convenience of the reader and are not intended to have any substantive meaning and or be interpreted as part of this Agreement.

**Section 9.06. Terminology.** All terms and words used in this Agreement, regardless of the number or gender in which they are used, are deemed to include any other number and any other gender as the context may require.

**Section 9.07. Cross-References.** References in this Agreement to any Article include all sections, subsections, and paragraphs in the Article; unless specifically noted otherwise herein, references in this Agreement to any Section include all subsections and paragraphs in the Section.

**Section 9.08. Jurisdiction and Venue.** In the event of any disputes between the Parties over the meaning, interpretation or implementation of the terms, covenants, or conditions of this Agreement, the matter under dispute, unless resolved between the Parties in accordance with Article X of this agreement, shall be submitted to the courts of the State of Michigan. Any and all claims against the State or the Department must be brought and maintained in the Court of Claims in Ingham County notwithstanding MCL 600.6421.

**Section 9.09. Amendment.** This Agreement may be amended or an alternative form of this Agreement adopted only upon written agreement of all Parties.

**Section 9.10. Effective Date.** This Agreement shall become effective as of the Effective Date.

## **ARTICLE X DISPUTE RESOLUTION**

If a controversy or dispute relative to this agreement should arise, the Parties agree to promptly negotiate in good faith to resolve the matter. Any Party may initiate negotiation by giving the other Parties written notification of any dispute not resolved in the normal course of business. The notice shall contain both a written summary of the dispute and arguments in support of its position. Within fourteen (14) days of receipt of notice, the other Parties will submit a written response outlining their Party's position and a summary of arguments supporting that position. Within fourteen (14) days, the Parties shall meet and negotiate in good faith in an effort to resolve the dispute.

If the Parties are unable to resolve the dispute through good faith negotiations within thirty (30) days of the first face to face meeting, then the Parties agree that the dispute shall be submitted to the Parties' executives for resolution. The executives should be persons with the authority to resolve the dispute and persons who do not have direct responsibility for the administration. Again, the Party who initiated the dispute resolution process shall initiate this level of negotiations by notifying the other Parties of their intent to submit the dispute to the executive level. The notice letter should summarize the remaining issues in dispute and identify the executive who will engage in negotiations and their summary of the remaining items in dispute. The Parties will agree on the first meeting date, which should be no later than sixty (60) days after the responding Parties have identified their executive.

Executives have the option of bringing additional parties to the table with them.

All negotiations pursuant to this clause are confidential and shall be treated as compromise and settlement negotiations for purposes of applicable rules of evidence.

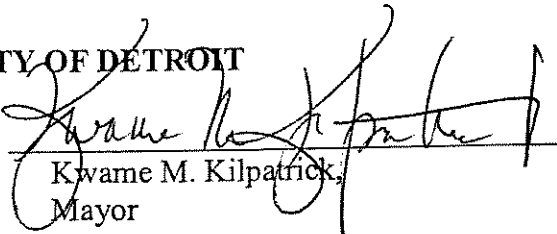
If the executives are unable to resolve the dispute within sixty (60) days, then the Parties agree to identify a neutral mediator and or facilitator to assist in resolving the dispute. The Parties may select a retired judge, an expert in a field related to the dispute or may seek the names of neutrals from a professional organization specializing in providing mediation or facilitation services. If the Parties are unable to agree on a neutral within fourteen (14) days, then the neutral shall be selected by the rules of Federal Mediation and Conciliation Service ("FMCS").

Mediation results shall be nonbinding. If the Parties are still unable to resolve their differences, the Parties may agree to either submit the dispute to binding arbitration in accordance with the rules of American Arbitration Association or the FMCS, or seek to utilize the court system to resolve the dispute. Any and all claims against the State or the Department must be brought and maintained in the Court of Claims in Ingham County notwithstanding MCL 600.6421.

This Agreement is executed by the duly authorized representatives of the Parties on the date(s) indicated below:

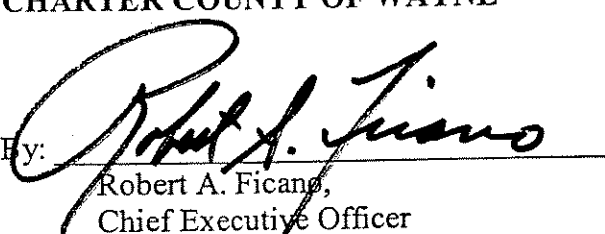
**CITY OF DETROIT**

By: \_\_\_\_\_

  
Kwame M. Kilpatrick,  
Mayor

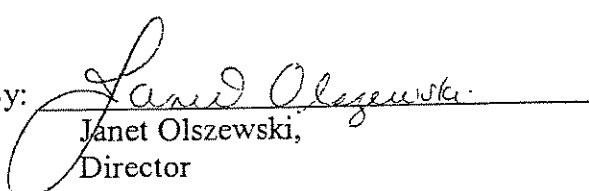
**CHARTER COUNTY OF WAYNE**

By: \_\_\_\_\_

  
Robert A. Ficaro,  
Chief Executive Officer

**DEPARTMENT OF COMMUNITY HEALTH,**

By: \_\_\_\_\_

  
Janet Olszewski,  
Director

DATE: June 9, 2004